

**Compensation Agreement (Insurance) –  
FirstGroup America Inc. & Arthur J. Gallagher & Co. of New York, Inc.**

**AGREEMENT**

THIS AGREEMENT is made and entered into and effective this 1<sup>st</sup> day of April, 2007 by and between FIRSTGROUP AMERICA, INC, an Ohio corporation ("Client"), and ARTHUR J. GALLAGHER & CO. OF NEW YORK, INC., a New York corporation ("Gallagher").

**I. TERM AND TERMINATION**

This Agreement will remain in effect until terminated by either party upon thirty (30) days prior written notice.

**II. OBLIGATIONS OF GALLAGHER**

Gallagher will provide insurance brokerage Services to Client and will use its best efforts to secure the following insurance coverages on Client's behalf: Workers Compensation, General Liability, Garage Liability, Automobile Liability, Umbrella Liability and Property. In the event an insurance company cancels or refuses to place the listed insurance, Gallagher will use its best efforts to obtain the coverage from another insurance company. Gallagher will also provide the Services set out on Exhibit A, attached hereto.

**III. OBLIGATIONS OF CLIENT**

- A. (i) For the period April 1, 2007 – March 31, 2007, Gallagher shall receive its usual and customary brokerage commission earned through December 31, 2007 on coverages placed, calculated to be \$600,000, for the services provided hereunder. In addition to such commissions, Gallagher will charge a fee of \$300,000 payable April 1, 2007 for Services. (ii) Such fees are conditioned on: (a) the fee cannot be calculated as a percentage of Gallagher's commission; or (b) the fee is not to be refunded, forgiven, waived, offset or reduced by a commission; or (c) the amount and obligation to pay the fee, are not subject to the occurrence of any future event. This fee is not required to be charged by either Gallagher, the insurer or the State of Ohio, and the fee is not refundable. (Ohio Revised Code §3905.55)
- B. In addition to such fees and commissions provided herein, Gallagher may also receive investment income on fiduciary funds temporarily held by it, such as premiums or return premiums, as well as fees for arranging premium financing for clients with third parties. Other parties, such as excess and surplus lines brokers, wholesalers, reinsurance intermediaries, underwriting managers, captive managers and similar parties, some of which may be owned in whole or in part by Gallagher's corporate parent, may earn and retain usual and customary commissions and fees in the course of providing insurance products to clients. Any such fees or commission will not constitute compensation to Gallagher under Section III.A. above.
- C. Client is responsible for payment of premiums for all insurance placed by Gallagher on its behalf. If any amount is not paid in full when due, including premium payments to insurance companies, that nonpayment will constitute a material breach of this Agreement that will allow Gallagher to immediately terminate this Agreement, at its option, without notice to Client.



**IV. INDEMNIFICATION**

- A. Gallagher agrees to indemnify and hold Client harmless from any loss, cost, damage, or expense (including reasonable attorney's fees) arising from the negligent acts or omissions of Gallagher.
- B. Client agrees to indemnify and hold Gallagher harmless from any loss, cost, damage, or expense (including reasonable attorney's fees) arising from the negligent acts or omissions of Client, including any financial obligation to pay premiums to any insurance company.

**V. SUBCONTRACTING**

Gallagher may subcontract any or all of the Services required to be provided by it under this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first written above.

Arthur J. Gallagher & Co. of New York, Inc.

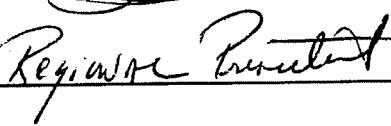
FirstGroup America, Inc.

By:

Title:

By:

Title:

Regionale President

Regionale President

## **EXHIBIT A SERVICES**

1. Arthur J. Gallagher & Co., Inc. will act as Broker for the U.S. primary casualty insurance program which includes the Workers Compensation, General Liability, Garage Liability and Automobile Liability Policies, the Umbrella/Excess Liability program and the Property insurance program, as requested by FirstGroup America.
2. Other policies which from time to time will be arranged - such as the Professional Liability, Underground and Above Ground Storage Tank Liability, SKE Foreign Package, SKE Defense Base Act Workers Compensation Policy, SKE Contingent Liability, FirstGroup Fiduciary Liability, etc will not be included under this fee agreement. Such policies will contain standard broker commission.
3. Arthur J. Gallagher & Co., Inc. will perform risk management services which FirstGroup America may from time to time need or require. The services include, but are not limited to:
  - A. Marketing and selection of carriers for the primary casualty insurance program, which includes the Workers Compensation, General Liability, Garage Liability and Automobile Liability Policies .
  - B. Interpreting coverage and offering professional advice about the insurance program as requested.
  - C. Advising FirstGroup America of changes in the insurance industry trends.
  - D. Seeking various alternatives and options to the handling of the static risks through the varied forms of insurance, self-insurance, deductibles, etc.
  - E. Reviewing of FirstGroup America's contracts solely to determine if additional risk exposures are present.
  - F. Production of Certificates of Insurance and automobile insurance identification cards for FirstGroup America.
  - G. Work with FirstGroup America's counsel and auditor in providing needed information and expertise.
  - H. Generally assist FirstGroup America in the administration of its program.
  - I. Assist with compilation of claims data.
4. The Service Fee for any acquisitions in excess of 20% of current Annual Revenues will be negotiated separately.